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APPLICATION NO. 08794332	FILING DATE 05/23/97	CHAMBERS PM52/0724	FIRST NAMED INVENTOR W	ATTORNEY DOCKET NO. 623-00027
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EXAMINER ROWAN, R.

ART UNIT 3643	PAPER NUMBER
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DATE MAILED: 07/24/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/794,332

Applicant(s)

Chambers, Sr.

Examiner

Kurt Rowan

Group Art Unit

3616



☒ Responsive to communication(s) filed on May 4, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 2-18 and 26-33 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 2 is/are allowed.

☒ Claim(s) 3-18, 26, and 29-33 is/are rejected.

☒ Claim(s) 27 and 28 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3616

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-4, 9-11, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims depend directly or indirectly from canceled claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 3-4, 9-11, 16 as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Adam for substantially the same reasons stated in the first Office Action.
5. Claims 5, 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman.

Art Unit: 3616

The patent to Freeman shows a fishing lure in Fig. 4 having a head portion 42 and first and second legs 41 which are generally planar on the upper and lower surfaces. Freeman shows the leg portions having increasing widths in the forward to rearward direction such that at least a portion of each leg located toward the leg rearward end has a width greater than a portion of each leg located toward the leg forward end. In reference to claim 31, 32 Freeman shows in Fig. 2 a curved portion of the inner leg and a linear portion extending rearwardly from the curved portion so that the curved portions of the legs define an opening 14 shown in Fig. 1. In reference to claim 33, Freeman shows an outer edge of each leg defining a convex curve in Fig. 2 that extends from the leg rearward end forwardly to a location adjacent the rearward end of the head.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adam in view of Wilson for substantially the same reasons stated in the first Office Action.

8. Claims 18, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adam in view of Freeman.

The patents to Adam and Freeman show fishing lures. Adam has been discussed in the first Office Action and shows the legs having a thickness less than the head and the outer edges of the legs

Art Unit: 3616

have a generally convex shape. Freeman shows a lure with a head portion 42 in Fig. 4 and two legs 43 with each leg having a first width adjacent the head and a second width greater than the first width at a location spaced rearwardly therefrom. In reference to claim 18, 26 Adam shows all of the elements recited with the exception of the widths which is shown by Freeman. It would have been obvious to provide Adam with leg widths as shown by Freeman since merely substitution of one leg shape for another is contemplated. In reference to claim 28, Freeman shows an arcuate opening 14 located toward the head in Fig. 1.

9. Claims 6-8 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman as applied to claim 5 above, and further in view of Koonz et al.

The patents to Freeman and Koonz show fishing lures. Freeman has been discussed above. Koonz shows a lure with a plurality of cylindrical nipples 27 as shown in Fig. 6 projecting upwardly as shown in Fig. 7. In reference to claims 6 and 12, it would have been obvious to provide Freeman with nipples as shown by Koonz to increase light reflection to attract more fish.

Allowable Subject Matter

10. Claim 2 is allowed.

11. Claims 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3616

Response to Arguments

12. Applicant's arguments filed May 4, 1998 have been fully considered but they are not persuasive. In reference to claim 17, the patent to Wilson shows a fishing lure having legs 4 with a curvature on the inner leg surfaces adjacent the body portion 1. Wilson shows inner straight leg portions rearward of the curved portions. These straight leg portions face each other.

13. Applicant's arguments with respect to claims 18, 26, 29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Serial Number: 08/794,332

Page 6

Art Unit: 3616

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (703) 308-2321.

KR

July 21, 1998



KURT ROWAN
PRIMARY EXAMINER
GROUP 3200